

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GENEVIEVE R. WHITAKER,

Plaintiff,

v.

**CAROLINE F. FAWKES, ARTURO R.
WATLINGTON, JR., ALECIA M. WELLS,
LYDIA A. HENDRICKS, LAWRENCE T.
BOSCHULTE, LILLIANA BELARDO
De O'NEAL, LISA HARRIS-MOORHEAD,
RAYMOND J. WILLIAMS, RUPERT
W.B. ROSS, JR., and HARRY A. DANIEL,**

Defendants.

Civil Action No. 2016-0033

Appearances:

Genevieve Whitaker, *Pro Se*
St. Croix, U.S.V.I.

Julita K. De Leon, Esq.,
St. Thomas, U.S.V.I.
For Defendants

MEMORANDUM OPINION AND ORDER

Lewis, District Judge

THIS MATTER is before the Court on the “Motion for Default Judgment” (Dkt. No. 29) filed by Plaintiff Genevieve Whitaker (“Plaintiff”). In her Motion, Plaintiff seeks a default judgment against all Defendants in light of their failure to Answer the Amended Complaint after this Court denied Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint for failure to state a claim under FED. R. CIV. P. 12(b)(6). This Court denied Defendants’ Motion to Dismiss in an Order entered on April 6, 2021. (Dkt. No. 26). Defendants were directed by separate Order to file Answers to the Amended Complaint on or before April 20, 2021. (Dkt. No. 28). To date, none of the Defendants have filed answers.

Plaintiff filed the instant Motion seeking entry of a default judgment pursuant to FED. R. Civ. P. 55(b). (Dkt. No. 29 at 2). To be entitled to default judgment, the moving party must present evidence, by affidavits and/or documents, of the following:

(1) that default was entered; (2) that the defendant has not appeared; (3) that the defendant is not an infant or incompetent [person]; (4) that all pleadings were validly served upon the defendant; (5) the amount of judgment and how it was calculated; and (6) an affidavit of non-military service.

Prestige Prop. Mgmt., LLC v. DEL Enterprise, LLC, No. 3:2019-003, 2020 WL 714111, at *2 (D.V.I. Feb. 12, 2020). Once this evidence is presented, it is within the discretion of the Court to determine whether a default judgment should be entered. *See Pieczenik v. Comm’r New Jersey Dept. of Envir. Protection*, 715 F. App’x 205, 208-09 (3d Cir. 2017); *Catanzaro v. Fischer*, 570 F. App’x 162, 165 (3d Cir. 2014).

In this case, Plaintiff has failed to establish that the Clerk has entered a default as mandated by FED. R. CIV. P. 55(a). Plaintiff has also failed to establish the other requirements for default judgment. *See Oelsner v. Maduro*, No. 3:2014-cv-062, 2021 WL 320831, at *3 (D.V.I. Feb. 1, 2021).

Because of Plaintiff’s failure to comply with FED. R. CIV. P. 55(a) and the other prerequisites for default judgment, the Motion for Default Judgment will be denied without prejudice.

UPON CONSIDERATION of the foregoing, Plaintiff’s “Motion for Default Judgment” (Dkt. No. 29) is **DENIED WITHOUT PREJUDICE**.

SO ORDERED.

Date: September 3, 2021

_____/s/_____
WILMA A. LEWIS
District Judge